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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,767	04/27/2005	Tomotada Kamei	2005_0731A	2691

52349 7590 11/15/2007  
WENDEROTH, LIND & PONACK L.L.P.  
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SUITE 800  
WASHINGTON, DC 20006

EXAMINER
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LAMB, CHRISTOPHER RAY

ART UNIT	PAPER NUMBER
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2627

MAIL DATE	DELIVERY MODE
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11/15/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/532,767

Applicant(s)

KAMEI, TOMOTADA

Examiner

Christopher R. Lamb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15,17-19,22 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15,17-19,22 and 25-27 is/are allowed.
- 6) ☒ Claim(s) 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 4<sup>th</sup>, 2007, has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 28 is rejected under 35 U.S.C. 102(b) as being anticipated by Nakajima (US 2002/0044509).

This claim recites “An optical recording medium from which information is to be reproduced by the semiconductor laser driving device of claim 22 and which has the allowance value recorded thereon.”

The phrase “from which information is to be reproduced by the semiconductor laser driving device of claim 22” is merely a statement of intended use and has no patentable weight.

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This is therefore a claim to an optical recording medium that has “the allowance value recorded thereon.”

As recited in claim 22, the allowance value is “an allowance value of a peak value of the emitted light.”

Nakajima discloses an optical recording medium which has an allowance value recorded thereon (paragraph 32: the peak power is recorded in the physical format information zone).

***Allowable Subject Matter***

4. Claims 15, 17-19, 22, and 25-27 are allowed.

5. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 15:

The closest prior art of record, Call in view of Kimbrough, as applied in the previous Office Action, does not disclose wherein the high-frequency superimposing control section is operable to control the amplitude of the high-frequency signal such that the amplitude decreases to lower the peak-to-average ratio as the average value increases, if the average value is less than a threshold value, and the amplitude increases to raise the peak-to-average ratio as the average value increases, if the average value is larger than the threshold value.

This limitation in combination with the other limitations of the claim renders it allowable over the prior art of record.

Regarding claims 17-19, 22, and 25-27:

They are dependent on claim 15.

***Response to Arguments***

6. Applicant's arguments, see pages 5-8, filed October 4<sup>th</sup>, 2007, with respect to the rejection of claims 15, 17-19, 22, and 25-27 have been fully considered and are persuasive. The rejection of these claims has been withdrawn.

However, Applicant's arguments were not persuasive in the case of claim 28. As noted in the rejection above, the limitation "from which information is to reproduced by the semiconductor laser driving device of claim 22" is merely a statement of intended use and does not have patentable weight. Therefore this claim does not necessarily include the allowable subject matter of the previous claims: it requires only an optical recording medium with an allowance value of a peak value of the emitted light recorded on it. This is disclosed by, for example, Nakajima, as per the rejection above.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Lamb whose telephone number is (571) 272-5264. The examiner can normally be reached on 9:00 AM to 6:30 PM Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CRL 11/5/07

*/Thang V. Tran/  
Primary Examiner  
Art Unit 2627*